IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on February 8, 2006, was served on the parties in this action. Petitioner filed a "motion for relief from judgment" [Pleading No. 4] which will be construed as objections to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Petitioner's petition for writ of habeas corpus [Pleading No. 1] be dismissed without prejudice due to Petitioner's failure to apply to the Fourth Circuit Court of Appeals for an order authorizing this district to consider the current

petition as is required by 28 U.S.C. § 2244. A judgment dismissing this action will be entered contemporaneously with this Order.

This the day of September 19, 2007

/s/ N. Carlton Tilley, Jr.
United States District Judge